

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

CRL.A.No. 213 of 1999(A)

CC.147/1998 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O),ERNAKULAM

APPELLANT:

RAJESH AGARWAL, PROPRIETOR RAJ TEXTILES,
38/1016-B, GOPALA PRABHU RAOD, ERNAKULAM,
KOCHI – 682 035

BY ADV. SRI.B.RAMACHANDRAN

RESPONDENTS:

1.S.LAKSHMANAN RAO, PROPRIETOR, RAOS OUT FITTERS,
TAILORS AND TEXTILE DEALERS, AMARAVATHI, KOCHI-11.

2.STATE OF KERALA, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.K.C.SANTHOSH KUMAR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 06/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J.B.KOSHY, J.

Criminal Appeal.No.213 OF 1999 (A)

Dated this the 6th day of December, 2006

JUDGMENT

This appeal is filed against the order of acquittal passed by the Additional Judicial Magistrate under Section 256 (1) of the Code of Criminal Procedure. Notice was not so far served on the respondents. In fact, notice was ordered on 12.3.1999, but notice was not served and no further steps were taken to serve notice. Today also it is submitted by the counsel who filed the appeal that the case bundle has been taken back by the appellant. Considering the facts and circumstances of the case, I am of the view that acquittal of the accused for the absence of the complainant under Section 256 (1) of Cr.P.C. cannot be taken as illegal. Hence this appeal is dismissed.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.Appeal.213 OF 1999 (A)

JUDGMENT

6th December, 2006